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## Monday, May 7, 2018

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### Chair

**Mr. Dan Ruimy**

# Standing Committee on Industry, Science and Technology

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● (1900)

[*English*]

**The Chair (Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.)):** Welcome, everybody, to our open mike on copyright. As you all know, we're doing a five-year legislative review of the Copyright Act. The study will be about a year long, and we have decided that on top of our regular committee meetings in Ottawa, we are going to go across the country. We're here in Halifax today, and we'll be in Montreal tomorrow, and then Toronto, Winnipeg, and Vancouver. We'll continue doing the same process, with two panels and an open mike. The reason we wanted to do this is that we're hearing from lots of organizations, but we thought it was very important to hear from individuals as well. Hence the reason for the open mikes at night.

There are some basic ground rules. I'll call out your name, and you can come up to the mike. We're going to try to keep it strictly to two minutes, because this could evolve into something else. You'll have two minutes to say what you want to say. We'll be taking our notes. Everything is being recorded. We won't be asking any questions. Keep an eye on me. I'll flag you down when you have 30 seconds left. We'll try to keep it nice and tight.

Are there any questions?

We're going to start. The first name I have here is Alison Balcom.

**Ms. Alison Balcom (Vice-President Internal, University of New Brunswick, As an Individual):** Good evening. Thank you for the opportunity to address the copyright review committee. My name is Alison Balcom. I am the vice-president internal of the University of New Brunswick student union. Unfortunately, the flood in Fredericton prevented the president from joining me today, but I am here on behalf of students, the users of copyrighted materials as an essential component of our education.

We stand with the Canadian Alliance of Student Associations in the assertion that students require government support for innovative learning. We believe that fair dealing fosters access to a diversity of sources and perspectives, and that any potential new fees must be both justified and transparent.

As a student in a multidisciplinary program, I know first-hand how important it is to have a variety of perspectives available and accessible for my courses. For example, community problem-solving and world-views both rely on accessible and available diverse materials. They are unsuitable for a textbook and they promote critical thinking and dialogue, fundamentally relying upon accessible online readings from a variety of perspectives. We are all familiar with the financial burden that accompanies a post-secondary education. The recently proposed tuition hike at our university, for example, yielded responses from students indicating that exiting high school, finances are the key factor that determines whether students can or cannot access a university education.

Thank you very much for your time.

● (1905)

**The Chair:** You still have 20 seconds.

**Ms. Alison Balcom:** Okay, perfect. I'll keep going. Our UNB student union has always very much valued accessible and affordable educational resources, so we conducted a campaign called TextBroke, which evaluated and surveyed students on how much money they were spending. Results indicated that $800 was the average that students spent on textbooks every year, and 43%—almost half of respondents—didn't buy the required materials for their courses.

I'll leave you with that. Thank you.

**The Chair:** I would also like to remind you that you can go online to the industry committee website and submit either a brief, or a commentary—a letter, if you will. You just mentioned something, and I know they were busy taking notes. You can go online and submit that as well. If you don't have enough time here, please, I encourage you to come online. Thank you very much for that.

The next person is Joshua Dickison. Come on up.

**Mr. Joshua Dickison (Copyright Officer, University of New Brunswick Libraries, As an Individual):** Hello. Thank you very much for the opportunity to speak here today.

It is my pleasure to have supported UNB as well as I could because I have been the copyright officer there since 2009.

Today, I'd like to do my best in a minute and 20 seconds to dispel some of the myths around universities' cost-saving measures as the reason for us dropping our Access Copyright licence. We have done everything we can. We have gone from department to department offering our services in education, and we have interactive online tools, quizzes from our website, and procedural workflows that have integrated course reserves at the section level with our students' and instructors' access to information.

I'd also like to say that fair dealing isn't something we think is a black-and-white test that we're going to be able to throw a blanket licence onto. This is a conversation and a copyright culture that has evolved on campus over the last 10 years and we're quite proud and so are the instructors who are willing to work with us on this.

But I'd also like to say there is a practical end to why this is working, and it's the digital disruption. There are no instructors here, I hope, right now, but this might be recorded. They're a little bit lazy. They're not going to want to go to the photocopiers and make these scans. They're not photocopying materials and making them available to the students. The content is quickly available online. That is where they are going. We'll make it available for them. We've given them the opportunity to let us do it for them, and they take us up on it whenever they feel they have to, but the majority of access to information is quickly going to the online content. That's the digital wave that's happening right now, and for us to strangle it with restrictions to fair dealing is going to have unintended consequences that I don't think are worthwhile.

Thank you.

**The Chair:** Thank you very much.

We are going to Carol Bruneau.

**Ms. Carol Bruneau (Author, As an Individual):** Thank you.

As you know, my name is Carol Bruneau, and I'm a novelist and short story writer. I've published seven books and I just want to comment on how my income from Access Copyright funds has plummeted.

When I first started writing—I've been writing 25 years professionally—the cheque I would receive annually was substantial. In the last few years, since the new legislation we have for copyright, it has plummeted, going, say, from $1,100 a year to about $100 a year. For someone like me, when my writing income is maybe $5,000 or $6,000 per year in a good year, that is a substantial loss.

It is discouraging when you have generated a body of work and as your expertise and experience as a writer grow, and this is not being recognized. My work is in university curricula and also in high school curricula.

I just find the situation very discouraging and very unfair.

Thank you.

● (1910)

**The Chair:** Thank you.

We're going to move on to Brett McLenithan.

**Mr. Brett McLenithan (Broadview Press, As an Individual):** Before my time begins, let me just express my sincere regret at having chosen a sweater that matches the upholstery and wallpaper so well.

**The Chair:** Where are you? I can't see you. Where are you?

**Mr. Brett McLenithan:** I'll move while I talk.

A quick thank you to the committee for hearing us tonight, for your long day, and for the long days that are coming.

I work with Broadview Press, an independent, Canadian-owned publisher of higher education books. In 2012, the word "education", of course, was added as a permissible purpose for fair dealing in the Copyright Act. I want to address that tonight.

First, the education sector interprets "fair dealing" to mean that much of the copying that they previously paid for through collective licensing agreements can now be done for free and, in effect, instructors can cobble together and print a textbook for their classes made from several different book chapters or excerpts or stories, while each publisher remains uncompensated. It's a model that involves copying without permission or payment what others have commercially produced.

For Broadview, revenue from these agreements will drop to almost zero this year from roughly $50,000 in 2012. Broadview typically declares a profit most years of between $100,000 and $200,000, so a quarter to a half sometimes is covered by those agreements. We, of course, reinvest this profit in new book projects, in technology, in new hires, indirectly in trying to maintain lower costs of books to students, and very often in the funding of publishing projects that don't always have great commercial success but are widely esteemed for their Canadian cultural value.

The loss of $50,000 in revenue, then, has introduced severe restrictions into these aspects of our publishing program. Indeed, the Federal Court of Canada in the Access Copyright v. York University ruling lists detailed evidence of the damage being done to the Canadian publishing industry in this context.

All of this aside, what about those who endeavour to create a work, like Ms. Bruneau, those who undertake the risk to publish and sell it? Broadview pays royalties to its authors. We respectfully pay permissions to other publishers and authors when we use their work. Writers, illustrators, and publishers should not be subsidizing the education system by being the only ones who pay for that content.

**The Chair:** Thank you very much.

We're going to go to Mr. Roger Gillis.

**Mr. Roger Gillis (Copyright Librarian, Dalhousie University, As an Individual):** Hello and good evening. Thank you for being here with us today.

We were happy to arrange some very nice weather for you today. It's too bad you're stuck in here and can't enjoy it.

My name is Roger Gillis, and I'm a copyright librarian at Dalhousie University. I'm also an instructor in the school of information management, where I teach digital collections. That intersects with a lot of the issues that this committee is discussing, like open access and indigenous knowledge, among a number of other things as well.

I want to do away with the notion that the education sector is not paying for copies that they're making by illustrating a personal example. Back in the fall when I was preparing my course, I had a wide range of material that I wanted to incorporate and have students take value from. That included Creative Commons licensed material, open-access material, but it also included material that was under copyright and for which permissions had to be sought. This included taking a chapter from a book, and then for using additional chapters, paying for that copyright clearance and paying a rights holder, so going to the actual source and ensuring that we were pursuing the proper licences for that.

The notion that we're somehow cheating authors and not paying for rights.... I can tell you that there's a lot of activity going on in the post-secondary sector around education for faculty and some other more monitoring-type measures, such as the use of our learning and management systems and electronic reserves, where we go through with a fine-tooth comb and say that this doesn't fall under fair dealing, that we have a licence for this.

As you've been hearing from my library colleagues across the country, we do spend a lot of money on licence resources, and some of that is coming along with paying for the amounts above and beyond fair dealing that are being used in the post-secondary classrooms.

I just wanted to bring that to the attention of the committee today. Thank you very much for the work that you're doing. It doesn't go unnoticed.

● (1915)

**The Chair:** Thank you very much.

We're going to move to Ossama Nasrallah.

**Mr. Ossama Nasrallah (President, Saint Mary's University Students' Association, As an Individual):** Good evening, Mr. Chair, esteemed committee members, fellow witnesses, and members of the gallery.

My name is Ossama Nasrallah. I'm the president of the Saint Mary's University Students' Association. I'm an international student in my fourth year at Saint Mary's. I'm here tonight to talk about the impact fair dealing has on the cost of post-secondary education.

My education is expensive. In fact, the cost increases every year, as tuition, rent, textbooks, and other fees rise. As an international student, the cost increases affect me dearly, as I already pay about twice the tuition that domestic students pay.

Not only has fair dealing allowed for a variety of new resources and material to be used in learning, the changing landscape of learning materials, including open education resources and open-access journals, has made a variety of content more affordable to post-secondary students, who incur high costs for tuition and textbooks. This has also enriched the quality of learning in the classroom, and makes the Canadian post-secondary education stronger.

The changing landscape of academic material, such as open education resources, is becoming the primary way through which research is shared. As students, we now have access to a vast array of learning materials at an accessible cost that enrich our learning experience. Fair dealing, in some small part, made this possible. It's worth noting that in this age of digital disruption, students, professors, and post-secondary institutions are among the largest consumers of academic resources. The household survey indicates that the average household expenditure for textbooks in 2015 was $656, indicating growth in the purchasing of academic resources.

As students, we have the right to be informed of the fees. We would argue that the copyright board adhere to a higher standard of transparency and a clear outline, and explain the fee structure imposed on students, especially, and clearly, as to why these fees apply equally to all students when there are varying licensing needs among faculties.

Thank you for your consideration, Mr. Chair, and committee members. Have a good evening.

**The Chair:** Thank you very much.

We're going to move to Denis Amirault.

**Mr. Denis Amirault (Student and Musician, Saint Mary's University, As an Individual):** Good evening.

My name is Denis Amirault. Tonight, I'm here to talk about the impact that fair dealing has on my post-secondary education, as I'm both a second-year marketing student at Saint Mary's University here in Halifax and a musician as well.

The inclusion of education as a component of fair dealing in the 2012 Copyright Modernization Act has affected my post-secondary education and experience in many ways.

It has allowed my professors to offer additional learning materials in class through excerpts of academic texts and videos. This has brought in a perspective, as a student, on many different topics, depending on the class. It has also allowed me creativity in my group projects and presentations, as I often use a variety of resources, including videos and music, to enhance my work. These expanded learning opportunities have enhanced my time in post-secondary education thus far.

Not only has fair dealing allowed for a variety of new sources and materials to be used directly for learning, it has also enhanced my extracurricular experience at Saint Mary's. My passion outside of the classroom is music. I sing and play acoustic guitar. Every week, I play at the campus bar and other venues around the city. I mostly play covers and mash-ups of popular songs, as my friends, colleagues, and students sing along.

I've been posting my performances on YouTube, Facebook, and social media. I'm trying to build an audience, allowing my family to watch from home as well. Fair dealing is one of the mechanisms that makes this possible for me; otherwise, I would not be able to afford the expensive rights for songs.

Fair dealing is instrumental, pun intended, to my post-secondary experience. It raises the quality of my classroom experience by allowing my professors to provide a variety of perspectives on topics, and it saves money by allowing my professors to provide small sections of otherwise costly academic materials for study. Fair dealing also allows me to pursue and share my passion for music with my family, friends, fellow students, and online audience.

Thank you very much for your time.

**The Chair:** Thank you.

Jordan Ferguson.

● (1920)

**Ms. Jordan Ferguson (Student, Acadia University, As an Individual):** Good evening, Mr. Chair, committee members, fellow witnesses, and others here.

My name is Jordan Ferguson, and I am a third-year psychology student at Acadia University. I am here tonight to talk about the importance that fair dealing has for ensuring accessible and high-quality post-secondary education, and the impact it has directly on my education.

The inclusion of education as part of fair dealing in the 2012 Copyright Modernization Act has created a mechanism that allows for the exchange of small amounts of information between authors and users. In my classroom, this has meant that professors have had the ability to use a diversity of sources, providing varied perspectives for me to analyze and learn from. It has also created learning experiences in my study groups, group projects, and presentations, as we are able to access and utilize a variety of different sources. These organic learning moments have been crucial to creating a well-rounded learning environment.

I previously mentioned that I am a psychology student. Inside the classroom, as is the case with any science, what we learn in our psychology courses is almost exclusively research-based. Therefore, our access to peer-reviewed journal articles is imperative to the completion of papers, projects, and assignments. In addition, the ability to obtain these journal articles through fair dealing allows our professors to provide us with an accurate and up-to-date education in the constantly evolving psychology field.

Outside the classroom, I'm the vice-president of the Acadia student dance collective, where I volunteer teaching my peers dance. Each semester our club uses a large selection of music and videos from various sources for warm-up, choreography, and the dance show at the end of each semester. Fair dealing enables many extracurricular activities similar to the dance collective, keeps them affordable, and ultimately enriches our student experience.

Fair dealing has a large impact on my experiences as a student and on the quality of my education both inside and outside the classroom. Last year alone I spent over $1,000 on textbooks for my classes. My peers and professors are the largest purchasers and consumers of academic resources. Fair dealing has not made textbooks and content anywhere near free but rather has increased the variety of resources I am able to learn from.

Thank you.

**The Chair:** That's excellent. Thank you very much.

Mr. Harry Thurston.

**Mr. Harry Thurston (Writer, As an Individual):** Thank you, Mr. Chair and committee members.

I've been a full-time writer for 41 years. During that time, I've published hundreds of articles and poems and authored 26 books, which have received many awards regionally, nationally, and internationally. I have been granted an honorary doctorate of literature, and my writing is used at all levels of the Canadian education system, from elementary school to doctoral studies.

Let me tell you a little about my life as a writer. For four decades I have gone into my office at nine in the morning and emerged in the late afternoon, Monday to Friday, keeping the same hours as other full-time workers in the economy, contrary to the romantic image of a writer as an occasional labourer who waits upon inspiration. On deadline and as a self-employed business person—because that is what writers are—I have also spent many weekends and holidays working at my desk.

I think of my writing as work product. Unfortunately, because of the changes made to the Copyright Act in 2012, my work is no longer respected as such. Schools, colleges, and universities no longer pay for the use of my work in their institutions, saying the use of my writing for free is a matter of fair dealing.

Of course, this is an example of Orwellian doublespeak, for there is nothing at all fair about using someone's work product without compensation. What other class of worker in the Canadian economy is subject to such discrimination and exploitation? Who else do you know who would be happy to work without pay? Certainly not teachers, professors, or politicians.... No worker should be subject to such treatment by their government.

The technology of copying a writer's work has changed from publishing in book format, to mechanical copying, to retrieval in digital format. What has not changed and should not change—

**The Chair:** I'm sorry. I'm going to have to—

**Mr. Harry Thurston:** I'm sorry. I'm going to finish.

What should not change is the principle and ethics of paying for the use of a writer's work in whatever format—

● (1925)

**The Chair:** I'm really sorry, but it's not fair to everybody else in the room, so I am going to have to ask you.... You can submit that as a brief to the committee, but it's not appropriate for.... Everybody else had their two minutes, and I'm asking you, sir, to be fair about this.

**Mr. Harry Thurston:** I want to close with one statement.

I know from personal experience that the writing life is tenuous at all stages of one's career, and more so as one grows older. I also know that free culture is unsustainable for creators.

Thank you.

**The Chair:** Thank you very much.

We're going to move to Jill MacLean, please.

**Ms. Jill MacLean (Writer, As an Individual):** Thank you for this opportunity to speak.

I'm a writer. I've published a poetry collection, three middle grade novels, and two young adult novels, all of them set in Atlantic Canada. These books have been nominated for many awards and have won four collectively.

From 2009 to 2015, from Vancouver Island to St. John's, I visited schools, libraries, conferences, and book festivals. In Newfoundland, I went to two schools that had never had a real writer in their classroom. In Ontario I attended several of the Ontario Library Association's Harbourfront gatherings, with 3,000 children bused in daily, many of whom had read and voted on my book.

My first children's book sold 11,000 copies. As a writer, in other words, I was instrumental in putting Canadian content in the classroom, and I felt honoured to do so.

The average income for a Canadian writer is $13,000 a year, which is about half the average minimum wage. We don't get EI, paid vacations, sick leave, or a salary. Access Copyright used to be a reliable source of income. This is no longer true. My 2017 payback cheque was one-quarter the amount of my 2012 payback cheque, a sizable decrease. The reason, as I understand it, is that since 2012 the education sector, including universities and schools, has permitted free copying, ignoring licensing agreements that ensured fair compensation to Canadian writers and publishers.

Despite the recent federal ruling against York University, ministries of education and school boards across the country have now launched a lawsuit against Access Copyright. One of my young adult novels in 2016 was picked up by the Nova Scotia education department for the school curriculum. However, members of the same government, by participating in this lawsuit, in my opinion, are acting punitively toward the province's creators, regardless of the fact that writers and publishers have earned less in the past few years and will earn less in the future, should the lawsuit win.

Thank you.

● (1930)

**The Chair:** Thank you.

That is all we have on our list.

I just want to remind everybody that everything that's said here today has been recorded through our analysts and we have also been recording all the actual audio portion of this.

Part of the role of the committee is to try to understand the impact of copyright. That's why we've opened it up. That's why we're looking at all aspects of this. It's going to be a fairly lengthy study, and we know there is a lot of controversy involved with this, so we want to ensure that people have had the opportunity to speak. I'm going to encourage again those who had more to say to, please, submit online. I guarantee you that it will be recorded and be part of our deliberations as we continue to go not just across the country but into different sectors. We are up and coming. We were on fair dealing. We're going to be slowly moving to publishing. We're going to be doing all the different sectors, so that we're looking at it in a holistic manner, piece by piece by piece.

I just want to make sure it's understood by everybody that they should not presume the outcome of this. We don't know. Right now we're on a fact-finding mission and just trying to understand.

Having said that, I want to thank you for taking the time to come today, for taking the time to come up to a microphone. It's not an easy thing to do. I commend you all for doing that and helping us to gather as much information as we can.

Thank you very much. The meeting is adjourned.

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